

AO 106 (Rev. 7/87) Affidavit for Search Warrant

United States District Court

In The

DISTRICT OF

New Mexico

FILEDUNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

DEC 01 2015

MATTHEW J. DYKMAN
CLERK

In the Matter of the Search of

(Name, address or brief description of person, property or premises to be searched)

A black 2006 Chevrolet Impala bearing NM license plate
390RTA and VIN 2G1WT58K369367227APPLICATION AND AFFIDAVIT
FOR SEARCH WARRANT

CASE NUMBER: 15-MR-798

I, LAUREN MILLIGAN being duly sworn depose and say:I am a(n) New Mexico State Police Sergeant
and have reason to believe

Official Title

that on the person of (name, description and/or location)

in the New Mexico District of New Mexico
there is now concealed a certain person or property, namely (describe the person or property to be seized)
evidence of Alcoholic Beverages, Items that show possession of the vehicle in question, Data within the Event Data Recorder, Cell
phone(s), Bodily fluids for trace evidence, illegal narcotics

which is (state one or more bases for search and seizure set forth under Rule 41(b) of the Federal Rules of Criminal Procedure)

Property that constitutes fruits, evidence, and instrumentalities of crimes against the United States,

concerning a violation of Title 18 United States code, Section(s) 1153, 1112.

The facts to support a finding of Probable Cause are as follows:

See Attached Affidavit hereby incorporated by reference as if fully restated herein.

Continued on the attached sheet and made a part hereof.

X: Yes : No

Signature of Affiant

Lauren S.A. Milligan
Sergeant

New Mexico State Police

B. Paul Briones

B. Paul Briones, US Magistrate Judge

Sworn to before me, and subscribed telephonically per Rule 4.1
in my presenceDecember 1, 2015 Farmington, NM
Date City and State

at 10:30 a.m.

UNITED STATES DISTRICT COURT

FOR THE

DISTRICT OF NEW MEXICO

IN THE MATTER OF THE ISSUING A SEARCH WARRANT ON THE 1st DAY
OF December, 2015.

AFFIDAVIT FOR SEARCH WARRANT

Affiant, being duly sworn, upon his oath, states and I have reason to believe that on the following described premises, vehicle(s) and/or person(s) of:

1. A black 2006 Chevrolet Impala bearing New Mexico license plate 390RTA and Vehicle Identification Number 2G1WT58K369367227. This vehicle is registered to Rob Begay. The vehicle is being held at the A1 Tow Yard located at 19 Coal Basin Road #B Gallup, NM 87301.

In the city or county designated above there is now being concealed:

1. Alcoholic beverage(s) and/or alcoholic beverage container(s) containing any amount of beverage whether open or closed. Any package(s) apparently used to advertise, store and/or transport alcoholic beverage(s). Any document(s) recorded on any media which indicates and/or tends to indicate the advertisement, sale, purchase, use, consumption, transfer and/or storage of alcoholic beverage(s).
2. Item(s) which establish or tend to establish possession, use, occupancy, presence and/or the right to possession of the vehicle to be searched.
3. Documentation and processing of the herein-described vehicle and/or the herein-described item(s), to be seized, by means of measurement, photography, videography and/or any other means deemed necessary by law enforcement and/or person(s) assisting law enforcement.
4. A complete mechanical inspection of the herein-described vehicle, to be searched.
5. Any collision and/or crash data device(s) including but not limited to data stored on/within the internal and/or external memory of the device(s).
6. Telephones, pagers, cellular telephones, radio transmitter/receivers, telephonic answering, paging and/or messaging machine(s). Data stored on/within the internal and/or external memory of the herein-described items, to be searched, including, but not limited to text messages, voice messages and/or any other data. This warrant shall authorize the complete search of the herein-described items, to be searched. It may be necessary to view, listen to and/or manipulate the herein-described items, to be searched, in order to copy, transcribe, transfer and/or otherwise document the data. This warrant shall authorize law enforcement and/or people assisting law enforcement to answer any incoming telephone call(s) which are received on the herein-described items, to be searched, and converse on said items, while executing this warrant and/or after taking possession of the herein-described items, to be searched.
7. Bodily fluid(s), bodily tissue(s) and/or bodily organ(s) including but not limited to

saliva, semen, blood, bone fragments, skin, hair and/or any item(s) that may have said item(s) upon and/or within them.

8. Illegal narcotics and/or any other controlled substance(s) and/or suspected illegal narcotics and/or any other suspected controlled substance(s) including, but not limited to any drug or substance listed in Schedules I through V of the Controlled Substance Act or regulations adopted thereto.

and the facts tending to establish the foregoing grounds for issuance of a Search Warrant are as follows:

Affiant, Lauren S. Milligan, is a full time salaried law enforcement officer who has been employed by the New Mexico State Police for a period of sixteen years. Affiant is a Sergeant in charge of the New Mexico State Police Crash Reconstruction Unit. Affiant has received specialized training in criminal investigations through the New Mexico Law Enforcement Academy, the New Mexico State Police Academy, the Institute of Police, Technology and Management, Crash Data Specialists, Collision Safety Institute, Force Science Institute, National Forensic Academy, Tom Bevel and Associates, Forensic Science Consultants. Affiant has received training in the investigation of traffic crashes including but not limited to vehicular homicide investigations. Affiant has received both classroom and on the job training concerning the investigation of the above offense(s). Affiant currently holds a Special Law Enforcement Commission through the Bureau of Indian Affairs (expires 6/11/2018) and a cross commission for the Navajo Police Department. Affiant has conducted numerous criminal investigations that led to the arrest and conviction of persons in violation of New Mexico State Statutes.

On November 28, 2015 at approximately 12:25 a.m. Affiant was contacted by Navajo Police Department (NPD) Criminal Investigations Lieutenant Malcolm Leslie in reference to assisting with a fatal traffic crash that occurred on the Navajo Indian Reservation. Lt. Leslie explained that a Native American male and a Native American female had been driving a passenger car south on US 491 near mile marker 10. The male was driving when he lost control of the car which rolled over. The female passenger was killed during the crash. The male driver had walked to a nearby convenience store to report the crash. Lt. Leslie explained that the driver of the passenger car was suspected of driving impaired when the crash occurred. Affiant responded to the scene of the crash arriving at approximately 1:05 a.m.

Upon Affiant's arrival I was met by Federal Bureau of Investigation (FBI) Special Agent (SA) Bill Weiss and Lt. Leslie. There were several NPD uniform officers doing traffic control. Lt. Leslie provided Affiant with an updated briefing. On November 27, 2015 at approximately 10:45 p.m. a call was received by McKinley County Metro dispatch in reference to a traffic crash where the occupants were ejected from the vehicle. Metro contacted the NPD office in Crownpoint, NM. At approximately 10:59 p.m. NPD Officer Daniel Kalleco arrived. Kalleco found a deceased female outside the vehicle. The driver of the vehicle, Rob Begay, had been transported from the scene via ambulance to the Gallup Indian Medical Center. Rob Begay had told an Emergency Medical Service person that he was driving the car when the crash occurred. Lt. Leslie asked for assistance from the New Mexico State Police (NMSP) Crash Reconstruction Unit (CRU) to investigate the cause of the crash.

The crash occurred in the area of US 491 north of Indian Service Route 9551. The crash occurred in Indian country and in the District of New Mexico. US 491 was a four lane highway with two lanes for northbound traffic and two lanes for southbound traffic. The travel lanes were separated by a raised concrete median. There were wide asphalt shoulders on the east and west sides of the travel lanes. There were white painted edge lines between the travel lanes and the asphalt shoulders. Past the west asphalt shoulder was a dirt shoulder that followed a downward slope until it met the right of way fence. West of the fence was an open dirt field with small bushes. NPD Officer Houston Begay pointed out what he thought were tire marks in the left southbound lane of US 491 though Affiant could not see them. The marks were visible on the west painted edge line. These marks were identified as yaw marks due to the striations in the marks. The yaw marks continued across the west asphalt shoulder and down the dirt slope to the right of way fence where the marks ended. There were several impact points and vehicle debris west of the fence in the dirt field.

At the end of the marks was a black Chevrolet Impala bearing NM license plate 390 RTA. The Impala sustained heavy damage to the exterior consistent with having rolled over. The damage was focused more on the passenger's side. The passenger's side front door and the trunk were open. There was the body of a deceased female outside the open passenger's side front door. The body was lying face up with the feet pointed toward the open door and the head pointed toward the east. The passenger's side front seatbelt was extended and hanging out of the door jamb. This indicated that the female had a seatbelt on during the crash then was removed from the vehicle after the crash. The driver's side front seatbelt appeared to be locked in place next to the B pillar indicating that the driver did not have a seatbelt on at the time of the crash.

Affiant opened the driver's side front door in order to turn off the vehicle's hazard lights. Affiant noticed a cell phone next to the driver's side seat. It is unknown of the driver of the vehicle used the cell phone to notify emergency personnel of the crash as was required pursuant to New Mexico state law. Affiant was aware that a call was made from the Shell gas station and store located approximately 1 mile south of the crash site. Affiant also noticed a six pack of possible alcohol located behind the passenger's side front seat with some of the contents missing. Alcohol is illegal on the Navajo Indian Reservation. There was an open container of liquid on the driver's side floorboard however Affiant could not see what it was.

Affiant spoke to Lt. Leslie on November 30, 2015 concerning his interview with Rob Begay. Begay stated that he was driving the vehicle when the crash occurred. He said that he and the victim had smoked marijuana at approximately 2:00 to 3:00 p.m. while in Gallup. The suspect said that he had purchased a fifth of alcohol and a 4 pack of beer at a store in Gallup at approximately 4:00 p.m. The suspect and the victim drove to a home on the reservation where they consumed part of the alcohol. The victim wanted to get snacks so Rob Begay drove them south on US491 when the crash occurred. Begay said that the victim had pulled on the steering wheel when the crash occurred.

Affiant is aware that the 2006 Chevrolet Impala has an Event Data Recorder that can be imaged with the Crash Data Retrieval equipment that the CRU has. The Event Data Recorder may have information stored within it from the crash that is being investigated.

Affiant believes that probable cause exists to further investigate a violation of USC Title 18 section 1153 because the driver, Rob Begay, admitted to driving during the crash. Both Rob Begay and Jane Doe were Indian and the crime occurred in Indian country. A violation of New Mexico State Statute 66-8-101 occurred where the driver did commit vehicular homicide by driving under the influence of alcohol or drugs (66-8-101.C). This was supported by scene evidence where there were suspected alcohol containers inside the vehicle. Scene evidence also shows the vehicle was traveling in the left southbound lane and left the road before rolling over a violation of NM State Statute 66-7-317, Driving on roadways laned for traffic. Because there was a cell phone next to the driver's seat and the driver walked a distance to report the crash he may be in violation of NM State Statute 66-7-203 which requires the driver to render aid and contact emergency services. Further probable cause exists to investigate a violation of USC Title 18 section 1112 due to the death of Jane Doe.

Search, seizure, processing and documentation of the said vehicle processing are material to the investigation of this fatal motor vehicle collision and material to evaluating driver culpability if any. Therefore, in this regard, it will be meaningful to process and to document the condition and/or location of items found at the scene and/or their context within the scene. Such information, if it exists, may be material and relevant to this investigation. This warrant requests the authority to view, listen to, copy, transcribe, transfer and/or record the data secured as a result from the aforementioned 2006 Chevrolet Impala and the items to be seized.

Affiant is also aware that item(s) which establish or tend to establish possession, use, presence and/or occupancy of the above-described vehicle to be searched, often demonstrate who had use and control of said vehicle. Such information may be material and relevant to this investigation.

Therefore, in order to ensure and promote a complete and thorough investigation of said vehicle, investigators may be required to examine the entire vehicle for forensic trace evidence. It may be necessary for investigators to remove and/or damage entire portions of the vehicle including but not limited to doors, windows, carpets, upholstery, mechanical equipment and/or the body and frame of said vehicle.

Therefore, Affiant respectfully requests that the Court issue a Warrant authorizing the search, seizure and processing of the above-described vehicle.

Subscribed and sworn to before me in
The United States District Court of NM on this
1st day of December, 2015

B. Paul Buere
Judge, Notary or other officer
authorized to administer oaths.

Lauren Milligan
Sergeant, NM State Police

Approved as to legal sufficiency:

Assistant United States Attorney

Note: This affidavit shall be filed in the same file as the search warrant. If no criminal proceedings are filed, the affidavit and warrant shall be filed in a miscellaneous file.